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JUDGE McMAHON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

07 CV 11308

Weyerhaeuser Company and Hengan
Jinjiang Household Products Co.,
Ltd.

Civ. ()

COMPLAINT

Plaintiffs,

- v. -

M/V OCTAVIA, her engines, boiler,
etc., in rem, and Overseas Orient
Container Lines and "Westvia"
Schiffahrts GmbH & Co., in personam

Defendants.



Plaintiffs by their attorneys, Kennedy Lillis Schmidt &
English, allege upon information and belief, as follows:

FIRST: All and singular the following premises are
true and constitute an admiralty or maritime claim within the
meaning of Rule 9(h) of the Federal Rules of Civil Procedure and
within the admiralty and maritime jurisdiction of the United
States and of this Honorable Court.

SECOND: At and during all the times hereinafter men-
tioned plaintiffs had and now has the legal status and principal

office and place of business stated in Schedules A, hereto annexed and by this reference made a part hereof.

THIRD: At and during all the time hereinafter mentioned defendants had and now have the legal status and offices and places of business stated in Schedules A, and were and now are engaged in business as common carriers of merchandise by water for hire, and owned, operated, managed, chartered and/or otherwise controlled the vessels above named as common carriers of merchandise by water for hire.

FOURTH: At and during all the times hereinafter mentioned, the said vessel was and now is a general ship employed in the common carriage of merchandise by water for hire, and now is or will be during the pendency of this action, within this District and within the jurisdiction of this Honorable Court.

FIFTH: On or about the date and at the port of shipment stated in Schedules A there was shipped by the shippers therein named and delivered to defendants and the said vessel, as common carriers, the shipments described in Schedule A then being in good order and condition, and defendants and the said vessel then and there accepted said shipments so shipped and delivered to them, and in consideration of certain agreed freight charges thereupon paid or agreed to be paid, agreed to transport and carry the said shipments to the ports of destination stated in Schedule A, and there deliver the same in like good order and

condition as when shipped, delivered to and received by them, to the consignees in Schedule A.

SIXTH: Thereafter, the said vessel arrived at the port of destination, where it and defendants failed to make delivery of the shipments described in Schedule A, all in violation of defendants' and the said vessel's obligations and duties as common carriers of merchandise by water for hire.

SEVENTH: Plaintiffs are the subrogated underwriters of the shipper, consignee or owner of the shipments described in Schedule A and bring this action on their own behalf and as agents or trustees on behalf of and for the interest of all parties who may be or become interested in the said shipments, as their respective interests may ultimately appear, and plaintiffs are entitled to maintain this action.

EIGHTH: By reason of the premises, plaintiffs have sustained damages, as nearly as the same can now be estimated, no part of which has been paid although duly demanded, in the sum of \$12,000.

WHEREFORE, plaintiffs pray:

1. That process in due form of law issue against defendants citing them to appear and answer all and singular the matters aforesaid;

2. That if defendants cannot be found within this District, then all their property within this District as shall be described in Schedule A, be attached in the sum of \$12,000, with interest thereon and costs, the sum sued for in this complaint;

3. That judgment be entered in favor of plaintiffs against defendants for the amount of plaintiffs' damages, together with interest and costs and the disbursements of this action;

4. That process in due form of law according to the practice of this Court in causes of admiralty and maritime claims, issue against said vessel, her engines, etc., and that all persons having or claiming any interest therein be cited to appear and answer under oath, all and singular the matters aforesaid, and that this Court pronounce judgment in favor of plaintiffs for their damages as aforesaid, with interest, costs and disbursements, and that the said vessel may be condemned and sold to pay therefor; and

5. That this Court grant to plaintiffs such other and further relief as may be just and proper.

Dated: New York, New York
December 17, 2007

KENNEDY LILLIS SCHMIDT & ENGLISH
Attorneys for Plaintiff

By: 

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SCHEDULE A

PLAINTIFF'S LEGAL STATUS

Plaintiff, Weyerhaeussen Company, a corporation or other business entity organized and existing under, and by virtue of, the laws of the State of Washington with an office for the transaction of business at 33663 Weyerhaeussen Way South, Federal Way, Washington 98063-9777.

PLAINTIFF'S LEGAL STATUS

Plaintiff, Hengan Jinjiang Household Products Co. Ltd., a corporation or other business entity organized and existing under, and by virtue of, the laws of a foreign country, with an office for the transaction of business at Hengan Bldg, Gong Ye Road, Anhui, Zhen, Jinjiang City, Quanzhou, Fujian, China.

DEFENDANT'S LEGAL STATUS

Defendant, Overseas Orient Container Lines, is a corporation or other business entity organized and existing under, and by virtue of, the laws of a foreign country, with an office for the transaction of business c/o OOCL (USA) Inc., Wall Street Plaza, 88 Pine Street, 8th Floor, New York, NY 10005.

DEFENDANT'S LEGAL STATUS

Defendant, "Westvia" Schiffahrts GmbH & Co. is a corporation or other business entity organized and existing under, and

by virtue of, the laws of a foreign country, with an office for the transaction of business at 28195 Breman, Germany.

DEFENDANT'S LEGAL STATUS

Defendant M/V OCTAVIA was the carrying vessel of the cargo set forth in, and pursuant to, a contract of carriage as described below; at all relevant times, the said vessel was and is owned by Westvia Schiffahrts GmbH & Co.

PARTICULARS OF CLAIM

Vessel: OCTAVIA

Voyage: 003W

Place of Acceptance: Norfolk, Virginia

Port of Loading: Norfolk, Virginia

Port of Discharge: Quanzhou, Weitou, China

Bill of Lading: OOLU1000267670

Issue Date of Bill of Lading: August 26, 2006

Shipper: Weyerhaeuser Company

Consignee: To Order of Shipper

Notify Party: Hengan Jinjiang Household Products Co., Ltd.

Cargo: 616 Rolls (308 packages) Kraft Bleached Wood Pulp

Nature of Loss: Damage

Amount of Loss: \$12,000

Kennedy Lillis Schmidt & English Reference: 5266